

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

HONORABLE NANCY G. EDMUNDS

v.

No. 19-CR-20388

ZACHARY WORLEY,

Defendant.

SENTENCING HEARING

Detroit, Michigan - Thursday, December 5, 2019

Appearances:

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On behalf of Defendant

- - -

Suzanne Jacques, Official Court Reporter  
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1 Detroit, Michigan

2 Thursday, December 5, 2019

3 10:41 a.m.

4 - - -

5 THE CLERK: Court calls case number 19-20388,  
6 United States of America vs. Zachary Worley. Date and time  
7 set for sentencing.

8 Would counsel state your name for the record?

9 MS. RUSSO: Good morning, Your Honor. April  
10 Russo and Barbara Lanning on behalf of the United States.

11 THE COURT: Good morning.

12 MS. STUDNICKI: Good morning, Your Honor.  
13 Stacey Studnicki with the Federal Defender's Office on  
14 behalf of Mr. Zachary Worley, who is standing to my left.

15 THE COURT: Good morning. Be seated.

16 I believe I took the Rule 11 agreement under  
17 advisement at the time I accepted the plea. Still want me  
18 to accept it?

19 MS. STUDNICKI: Yes, Your Honor.

20 MS. RUSSO: Yes, Your Honor.

21 THE COURT: And Ms. Studnicki, have you had an  
22 opportunity to review the presentence report with  
23 Mr. Worley?

24 MS. STUDNICKI: Yes, I have.

25 THE COURT: No objections?

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1 MS. STUDNICKI: No, Your Honor.

2 THE COURT: Any for the government?

3 MS. RUSSO: None, Your Honor.

4 THE COURT: Then Ms. Studnicki, is there  
5 anything you'd like to say on behalf of Mr. Worley before I  
6 impose sentence?

7 MS. STUDNICKI: Yes, Your Honor, if I may.

8 Your Honor, I did file a sentencing memorandum  
9 for Mr. Worley.

10 THE COURT: I saw it. Thank you.

11 MS. STUDNICKI: Thank you. I won't repeat my  
12 sentencing memorandum, however, just to make a few points on  
13 behalf of Mr. Worley, Your Honor, I think the facts of this  
14 case speak for themselves. As I pointed out in the  
15 memorandum, the minor victim, he met the minor victim on an  
16 app, a meeting app, a dating app for people over the age of  
17 18. She misrepresented her age to him.

18 And I would point out one thing, Your Honor,  
19 that the government put in their sentencing memorandum about  
20 him contacting other minors. The person that they pointed  
21 to is actually 23 years old, the other alleged minor, so I  
22 would ask the Court to disregard that statement in the  
23 government's memorandum. She's not -- the other person is  
24 not a minor at all who he was communicating with on his  
25 phone. There is no evidence that he was communicating with

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1 any other minors, had collections of child pornography, was  
2 targeting young girls.

3 The minor victim in this case, as I said, was  
4 someone who represented -- misrepresented her age to him,  
5 and there's no other evidence of behavior like this, Your  
6 Honor. As Your Honor has seen and has -- we have all seen  
7 cases such as this, Your Honor. This is such a different  
8 case than what we're used to seeing. We're used to seeing  
9 men who target multiple minors, who have collections of  
10 child pornography on their phone or on their computers, who  
11 have extremely egregious behavior. Your Honor, none of that  
12 is here in this case.

13 Your Honor, he's 25 years old. A sentence of 10  
14 years is a huge amount of time for this young man. He's  
15 willing to pay the consequences, though, Your Honor. He's  
16 sorry, what he did was wrong, but Your Honor, a sentence of  
17 10 years is more than enough punishment in this case given  
18 the facts of this case, given the background of Mr. Worley.  
19 And so, Your Honor, I would ask that the Court sentence him  
20 to the mandatory minimum, which is the 120 months.

21 THE COURT: Thank you, Ms. Studnicki.

22 MS. STUDNICKI: Thank you.

23 THE COURT: Ms. Russo.

24 MS. RUSSO: Thank you, Your Honor.

25 Your Honor, the government is asking for a

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1 downward variance in this case. The guidelines are 360  
2 months to life, and the government is asking for 25 years of  
3 imprisonment plus 5 years of supervised release, and a  
4 restitution order that's been agreed to by the parties of  
5 \$25,000 to the minor victim in this case.

6 I want to go through a couple of the things that  
7 were brought up in the defense sentencing memo as I go  
8 through the 3553(a) factors and explain how the government  
9 came to this recommendation, Your Honor, because we agree  
10 that there is mitigation in this case, but there are some  
11 aggravating factors, as well.

12 When you look at the nature and circumstances of  
13 this offense, Your Honor, I think one of the problems is  
14 that the defendant has failed to accept responsibility for  
15 what he did, which I think is a risk factor and so it sort  
16 of clouded the facts. So I want to go through those facts a  
17 little bit.

18 First of all, Your Honor, the government agrees  
19 that the minor victim in question had a profile that said  
20 she was 19 and from California. The defendant quickly  
21 learned she was not from California, that she was from  
22 Michigan, and the defendant and the minor victim, who was 14  
23 at the time, actually, started Skype messaging, and they  
24 were on webcam with each other, Your Honor. And in these  
25 images that the defendant captured of the minor victim

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1 engaged in masturbation, engaged in other sexual activity,  
2 you can see stuffed animals on her bed. It's clearly a  
3 child's bedroom, Your Honor.

4 So in the very beginning when he's starting to  
5 communicate with this minor, he must be aware that this is a  
6 child, and looking at those images, the agents involved in  
7 this case, the FBI agents, myself, Your Honor, can very  
8 clearly tell this is a child.

9 In addition to that, Your Honor, the way that  
10 this young girl communicates is very clearly indicative of  
11 the fact that she's a child. To give you an example of  
12 that, after about three months of communicating with  
13 Mr. Worley, Mr. Worley tells her he's going to come meet up  
14 with her, he's going to travel from Texas to Michigan. This  
15 is in February of 2019.

16 There's a text message conversation between him  
17 and the minor victim during this time. Worley tells her,  
18 I'm safe, I'm riding the bus, I'm on my way. She responds,  
19 Rawwr, R-A-W-W-W-R, my mom brought cookies, 0000 MMMM GGG,  
20 she bought cookies. This is indicative of all the sorts of  
21 conversations these two had. Clearly shows that she's not  
22 19 years old.

23 So when Mr. Worley arrives in Michigan, they  
24 have to pick her up from her mother and father's house  
25 'cause that's where she lives. He brings her back to this

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1 other house where she's doing her school homework on a  
2 school laptop, and Mr. Worley admits that he noticed that  
3 she was doing that. Mr. Worley's friend sees her doing that  
4 and says, "I need some identification because you appear to  
5 be a minor, and I think you might be 14 or 15 years old."  
6 He tells Mr. Worley, "This child is 14 or 15 years old,  
7 she's not 19, right?"

8 And after that occurs, Mr. Worley and the friend  
9 drop the girl back off at her parents' house, pick her up  
10 again. At that point, he has sex with her numerous times,  
11 he gives her LSD. And the friend says, "Listen, she is a  
12 minor, I can't have her in my house having sex with you.  
13 I'm not going to be a part of this."

14 Instead of Mr. Worley then saying okay, you're  
15 right, let's drop her back off at her parents' house, while  
16 the friend leaves to go warn the father about what's  
17 happening, Mr. Worley takes this girl to the Greyhound bus  
18 station, buys two tickets to go to Texas with this young  
19 girl, knowing that the police may be informed of what's  
20 going on by his friend. In fact, it is after he for sure  
21 knows that the police are involved that he asks this girl to  
22 create a video stating that she was -- had always told him  
23 that she was over the age of 18, and he posts this video on  
24 social media. It's only after he knows the police are  
25 coming after him that he does that, and I think that's very

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1 important because the way he's characterized this video is  
2 that he never thought she was under age, and he had her  
3 create this video as a result.

4 He also, if you recall, Your Honor, has her  
5 ditch her phone in some tires. Now, whether that was of her  
6 volition or his volition, we don't know, but what we do know  
7 is she ditched her phone, that she told him she was  
8 concerned that her dad was going to track her and come after  
9 her and try to prevent them from going on this bus.

10 So when you look at all that evidence, it's very  
11 clear, Your Honor, that this defendant knew that she was  
12 underage and continued to have sexual relations with her  
13 after knowing that. But not just that, that he produced  
14 child pornography as well as enticed this minor.

15 And he isn't facing the 15-year mandatory  
16 minimum, and that is in part because of the mitigating  
17 factors that Ms. Studnicki has mentioned in her memorandum,  
18 and the government understands these factors, and that is  
19 why we made the offer that we did make, Your Honor. Those  
20 factors include Mr. Worley's history and characteristics.  
21 He's had a very difficult childhood, we don't deny that. He  
22 doesn't have a lot of support systems out there that could  
23 help him avoid falling into this sort of trap.

24 In addition to that, Your Honor, they include  
25 the fact that there wasn't other child pornography on his

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1 devices. There was a communication with a young lady who  
2 said that she was half the age of 30, so she indicated to  
3 him she was 15. He now says she was 23.

4 MS. STUDNICKI: Wait, I'm sorry, I have to -- it  
5 says, "We are halfway to 30." It didn't say, "I am halfway  
6 to 30."

7 "We are halfway to 30." I have to correct that.

8 MS. RUSSO: I don't have the communication in  
9 front of me, Your Honor, so --

10 MS. STUDNICKI: Would you like to see it?

11 MS. RUSSO: I have no reason to dispute what  
12 Ms. Studnicki is saying.

13 But there was a girl he was communicating with  
14 other than the victim in this case who indicated that she  
15 was halfway to 30, which is of concern.

16 But like I said, this is, to us, a mitigating  
17 factor, that there's no other child pornography, that  
18 there's no other victims that we know of that are minors  
19 that he met up with for sex.

20 The aggravating factors are that he provided  
21 drugs to this young girl and that he met up with her  
22 multiple times for sex and was trying to take her to Texas.  
23 So when you look at all those factors, Your Honor, that's  
24 where we end up at our recommendation.

25 The only other thing I want to say before I sit

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1 down is just that when we look at the history and  
2 characteristics of this offender, there is mitigation but  
3 there is also some serious cause for concern, and the  
4 government's biggest concerns about this offender is his  
5 failure to accept responsibility, his lack of remorse for  
6 what occurred with respect to this victim. I think he's  
7 very upset that he got caught. I don't think he actually  
8 has expressed to this Court that he feels sorry for what he  
9 did to this young girl. And third, Your Honor, a factor  
10 that does increase the risk of recidivism, which we have to  
11 consider, is the fact that he does have a history of  
12 committing crimes as a juvenile. And when we look at  
13 antisocial behavior risk, that is one of the factors that  
14 suggests that he is a higher risk of recidivism.

15 So looking all at all those things, Your Honor,  
16 the government lands at a downward variance and a request  
17 for 25 years.

18 THE COURT: Thank you, Ms. Russo.

19 MS. STUDNICKI: Judge, can I rebut?

20 THE COURT: Go ahead.

21 MS. STUDNICKI: I'm sorry, but first of all, the  
22 text messages on his phone, I just got them Monday, Monday.  
23 They did not give them to me. They cited them in their  
24 sentencing memorandum, and as we're looking at the  
25 government's sentencing memorandum citing text messages, we

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1 don't have those.

2 MS. RUSSO: Your Honor, they've been available  
3 for the defense to review from the beginning of the case,  
4 but because they contain child pornography, we cannot pass  
5 those so we've made them available to review. When  
6 Ms. Studnicki saw the sentencing memo, she wanted to review  
7 them, we were able to pass the specific excerpts that we had  
8 cited in our sentencing memo and do redactions so that she  
9 could have those, which we did immediately.

10 MS. STUDNICKI: Anyway, she said the text  
11 message about, my mom brought cookies, blah, blah, blah,  
12 that is not indicative of how that woman, girl spoke. I  
13 have all those text messages. She spoke in complete  
14 sentences. So it's a misrepresentation to say this girl  
15 always said OMG, whatever. She spoke in complete sentences.

16 He did not take her to the bus station, they  
17 walked down the street together. He did not force her to go  
18 to the bus station, she went with him on foot. The video  
19 was made, he asked her to make a video in response to the  
20 text messages from his friend Edward saying, "Dude, she's  
21 15, the father says she's 15."

22 And Your Honor, just one more thing on his  
23 criminal history. As I pointed out in my memo, this young  
24 man went through a hard time between the age of 16 and 18  
25 with his father. If the Court notices, all the criminal

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1 history is that point in his life, between the ages of 16  
2 and 18, and most of it is related all to his family turmoil.  
3 It's not -- and there's a correlation there, Your Honor.  
4 Once he left the family house, he has not had anymore  
5 criminal history.

6 And Your Honor, in terms of not showing remorse,  
7 I don't understand where that's coming from. He pled  
8 guilty, he timely accepted responsibility. This young man  
9 has shown remorse, so I don't understand that.

10 And he has not had his chance to speak yet  
11 today.

12 THE COURT: Mr. Worley, I'd be happy to hear  
13 anything you have to say in your own behalf before I impose  
14 sentence.

15 THE DEFENDANT: Yes, Your Honor. I would just  
16 like to say that I'm sincerely, deeply sorry for my actions  
17 and what I've done. I want to say that I'm very sorry to  
18 the minor and her family. I never meant any ill will to  
19 anyone, and I want to say that I realize that what I did was  
20 wrong, and I swear it will never happen again.

21 THE COURT: Thank you.

22 THE DEFENDANT: Thank you.

23 THE COURT: Want to step forward, please,  
24 Ms. Studnicki, with Mr. Worley?

25 The guidelines in this case are 360 months to

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1 life. The guidelines, of course, are advisory, they're not  
2 mandatory. The Court is directed under 18 U.S.C. Section  
3 3553(a) to impose a sentence that's sufficient but not  
4 greater than necessary to achieve the statutory objectives.

5 There is a 10-year mandatory minimum in this  
6 case, and this is a special case because I agree with most  
7 of what defendant says. He had a very troubled childhood,  
8 his criminal history seems to be correlated with his  
9 problems at home. There is no evidence of other child  
10 pornography.

11 And I'm kind of reading between the lines here,  
12 but I think what happened is he became obsessed with this  
13 young girl and was willfully blind to the fact that she  
14 might have been underage. She was underage, and that what  
15 was apparent to others who dealt with her, he closed his  
16 eyes to not because of her youth, necessarily, but because  
17 he had become fixated on her through this app.

18 So as I go through the sentencing factors, the  
19 nature and seriousness of the offense, well, obviously  
20 having sex with a 14-year-old, eventually 15-year-old, is a  
21 serious kind of offense that can impact the victim's life  
22 forever, a very serious offense, and that's why there's a  
23 10-year mandatory minimum on it.

24 And the history and characteristics of the  
25 defendant, I've already mentioned he had a difficult

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1 childhood, he let himself become a victim of a dating app  
2 that he should have been more careful with, should have been  
3 more alert to, kind of willfully ignored, but I don't think  
4 he's the type of sexual predator that we usually see in  
5 child pornography. We often see, I'm not going to say  
6 usually, in child pornography cases.

7 The second factor is to acknowledge the  
8 seriousness of the offense, to impose respect for the law  
9 and to provide just punishment. That is what the guidelines  
10 try to do. I always think of this second factor as a  
11 guidelines factor.

12 The third and fourth factors are deterrence  
13 factors; one, to prevent others from engaging in this kind  
14 of activity, and the other, to protect society against  
15 further crimes of this defendant. I don't expect him to  
16 repeat this type of crime when he's finished with his  
17 custody sentence. As I said, I don't think he is the  
18 typical sexual predator. I think he just permitted himself  
19 to become obsessed with this one particular young girl.

20 And then, to avoid unwarranted sentencing  
21 disparities with others of similar backgrounds who committed  
22 similar offenses, and to provide appropriate educational,  
23 emotional, medical, et cetera, programs for the defendant.

24 So I think 360 months is way, way too much here.  
25 I think that the 25 years requested by the government is way

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1 too much. It seems to me that a sentence at the mandatory  
2 minimum is more than enough for someone in this particular  
3 position, and that happens to be the sentence Probation also  
4 recommended.

5 So on Count 1 of the Information, pursuant to  
6 the Sentencing Reform Act of 1984, the Court, considering  
7 the sentencing guidelines and factors contained in 18 U.S.C.  
8 Section 3553(a), hereby commits the defendant to the custody  
9 of the United States Bureau of Prisons for a term of 120  
10 months. It is further recommended that the defendant be  
11 designated to an institution with a comprehensive drug  
12 treatment program.

13 Upon release from imprisonment, defendant shall  
14 be placed on supervised release for a term of 5 years. It  
15 is further ordered that the defendant pay a special  
16 assessment of \$100, which is due immediately. It is further  
17 ordered that the defendant pay a Justice for Victims of  
18 Trafficking Act assessment of \$5,000, which is also due  
19 immediately.

20 While in custody, defendant shall participate in  
21 the Inmate Financial Responsibility Program, IFRP. This  
22 Court is aware of the requirements of the IFRP, and approves  
23 the payment schedules of this program and hereby orders the  
24 defendant's compliance.

25 The Court waives the imposition of a fine, the

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1 costs of incarceration and the costs of supervision due to  
2 the defendant's lack of financial resources. It is further  
3 ordered that the defendant pay restitution payable to the  
4 Clerk of the Court for disbursement to the victim identified  
5 below, in the amount below, for a combined restitution in  
6 the amount of \$25,000, which is due immediately. Interest  
7 shall not accrue.

8                   Mandatory drug testing is ordered.

9                   Pursuant to 34 U.S.C. 40702, defendant shall  
10 cooperate with the collection of a DNA sample as directed by  
11 the probation officer.

12                   While on supervision, defendant shall abide by  
13 the standard conditions adopted by this Court and with the  
14 following special conditions. Due to the circumstances and  
15 nature of the offense, the following conditions are ordered.  
16 One, defendant must comply with the requirements of the Sex  
17 Offender Registration and Notification Act, that is, 34  
18 U.S.C. Section 20901 et sec, as directed by the probation  
19 officer, the Bureau of Prisons or any state sex offender  
20 registration agency in the location where defendant resides,  
21 works, is a student or was convicted of a qualifying  
22 offense.

23                   Two, defendant must not have direct contact with  
24 any child he knows or reasonably should know to be under the  
25 age of 18 including -- well, he doesn't have any children --

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1 without the permission of the probation officer. If  
2 defendant does have any direct contact with any child he  
3 knows or reasonably should know to be under the age of 18  
4 without permission of the probation officer, he must report  
5 this contact to the probation officer within 24 hours.  
6 Direct contact includes written communication, in person  
7 communication or physical contact. Direct contact does not  
8 include incidental contact during ordinary daily activities  
9 in public places.

10                   Three, defendant must participate in the  
11 Computer and Internet Monitoring Program administered by the  
12 United States probation department. He must abide by the  
13 CIMP agreement in effect at the time of supervision, and  
14 comply with any amendments to the program during the term of  
15 supervision. Due to the advances in technology, the Court  
16 will adopt the amendments of the CIMP as necessary.

17                   For the purposes of accounting of all computers,  
18 hardware, software and accessories, defendant must submit  
19 his person, residence, computer and/or vehicle to a search  
20 conducted by the US probation department at a reasonable  
21 time and manner.

22                   He must inform any other residents that the  
23 premises may be subject to a search pursuant to this  
24 condition. Defendant must provide the probation officer  
25 with access to any requested financial information,

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1 including billing records, telephone, cable, internet,  
2 satellite, et cetera.

3                   Failure to submit to a -- to the search just  
4 referenced shall be conducted by a United States probation  
5 officer at a reasonable time and in a reasonable manner  
6 based upon a reasonable suspicion of contraband or evidence  
7 of a violation of a condition of release. Failure to submit  
8 to such a search may be grounds for revocation.

9                   Defendant must warn any residents that the  
10 premises may be subject to searches.

11                   Five, defendant must not have any contact,  
12 directly or indirectly, with any victim or witness in this  
13 offense unless approved by the probation officer.

14                   Six, defendant must not purchase, sell, view or  
15 possess images in any form of media or live venue that  
16 depict pornography, sexually explicit conduct, child erotica  
17 or child nudity. He must not patronize any place where such  
18 material or entertainment is available.

19                   Seven, defendant must have all residences  
20 preapproved by the probation department. He must not  
21 provide care or live in a residence where children under the  
22 age of 18 reside without prior approval of the probation  
23 officer.

24                   Eight, if necessary, defendant must submit to a  
25 psychological or psychiatric evaluation as directed by the

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1 probation officer.

2 Nine, defendant must submit to substance abuse  
3 testing to determine if he has used a prohibited substance.

4 Ten, defendant must take all mental health  
5 medications that are prescribed by his treating physician.

6 11, defendant must participate in a cognitive  
7 behavioral treatment program and follow the rules and  
8 regulations of that program. The probation officer will  
9 supervise his participation in the program. Such programs  
10 may include group sessions led by a counselor, or  
11 participation in a program administered by the probation  
12 office.

13 12, defendant must not use or possess any  
14 controlled substances without a valid prescription. If he  
15 does have a valid prescription, he must disclose the  
16 prescription information to the probation officer and follow  
17 the instructions on the prescription.

18 13, defendant must work full time, at least 30  
19 hours per week, at a lawful type of employment unless the  
20 probation officer excuses him from doing so. If he does not  
21 have full-time employment, he must try to find full-time  
22 employment unless the probation officer excuses him from  
23 doing so. If he plans to change where he works, or anything  
24 about his work such as position or job responsibilities, he  
25 must notify the probation officer at least 10 days before

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1 the change. If notifying the probation officer at least 10  
2 days in advance is not possible due to unanticipated  
3 circumstances, he must notify the probation officer within  
4 72 hours of becoming aware of a change or expected change.

5 Due to the financial obligations, the following  
6 conditions are ordered: Defendant shall make monthly  
7 installment payments on any remaining balance of the  
8 restitution and special assessment at a rate and schedule  
9 recommended by the probation department and approved by the  
10 Court. He must not incur new credit charges or open  
11 additional lines of credit without the approval of the  
12 probation officer. And finally, he must provide the  
13 probation officer with access to any requested financial  
14 information and authorize the release of any financial  
15 information. The probation office may share financial  
16 information with the U.S. Attorney's Office.

17 Mr. Worley, I do not think you have the right to  
18 appeal the sentence or your conviction since the sentence is  
19 below the guidelines you agreed to in your Rule 11  
20 agreement. To the extent there's any issue you think you  
21 want to raise on appeal, you need to talk to Ms. Studnicki  
22 about it immediately because there's a time limit of 14 days  
23 during which you must file your appeal.

24 Are there any issues that have not yet been  
25 addressed by the Court, Ms. Studnicki?

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1 MS. STUDNICKI: No, Your Honor, just that we've  
2 looked at institutions, and Mr. Worley was wondering if the  
3 Court would recommend Elkton, Ohio.

4 THE COURT: I'll be happy to do that, with the  
5 understanding that the BOP does its own evaluation and --

6 THE DEFENDANT: I understand.

7 THE COURT: -- and sometimes they follow the  
8 Court's recommendation, and just as often they don't.

9 MS. STUDNICKI: Yes, Your Honor. Thank you.

10 THE COURT: Ms. Russo, any additional issues?

11 MS. RUSSO: No, Your Honor.

12 THE COURT: All right. Thank you.

13 MS. STUDNICKI: Thank you, Your Honor.

14 THE COURT: Good luck.

15 (Proceedings concluded at 11:12 a.m.)

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3 **C E R T I F I C A T I O N**  
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6 I, Suzanne Jacques, Official Court Reporter for the United  
7 States District Court, Eastern District of Michigan, Southern  
8 Division, hereby certify that the foregoing is a correct  
9 transcript of the proceedings in the above-entitled cause on the  
date set forth.

10

11

12 s/Suzanne Jacques 9/27/2021  
13 Suzanne Jacques, RPR, RMR, CRR, FCRR  
14 Official Court Reporter  
15 Eastern District of Michigan

16 Date  
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